

### **REMARKS**

Responsive to the Office Action mailed November 15, 2007, Applicants provide the following remarks. Fourteen (14) claims remain pending in the application: Claims 1-14. Reconsideration of claims 1-14 in view of the remarks below is respectfully requested.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues, it is respectfully requested that the Examiner telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

### **Information Disclosure Statement**

1. Applicants respectfully request that the Examiner consider the references provided in the electronic IDS filed concurrently and provide Applicants with an initialed copy indicating that the references were considered.

### **Claim Rejections - 35 U.S.C. §102**

2. Claims 1-14 stand rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 6,727,914 (Gutta et al.). Applicants respectfully traverse these rejections and submit that claims 1-14 are not anticipated or made obvious by Gutta, as Gutta fails to expressly or inherently teach all the elements found in at least independent claim 1. Specifically, claim 1 recites in part:

detecting preliminary selection of a particular one of the discrete selectable audio/visual programs to provide a preliminarily selected audio/visual program;

when a user selects the preliminarily selected audio/visual program, automatically taking a first predetermined action with respect to the preliminarily selected audio/visual program;

when a user preliminarily selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminarily selected audio/visual program, which second predetermined action is different than the first predetermined action;

when a user takes an action with respect to the preliminarily selected audio/visual program, which action does not comprise either selecting the preliminarily selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program, which third predetermined action is different than the first and the second predetermined action.

The Gutta patent fails to teach or suggest at least a first predetermined action, a second predetermined action, and a third predetermined action. In addition, Gutta does not disclose three predetermined actions, where the first, second, and third predetermined actions are different from each other and each action is taken with respect to the same preliminarily selection audio/visual program in response to when a user takes the three different actions. The office action cites col. 1, lines 35-44 of Gutta in attempt to support the rejection. This cited portion of Gutta, however, merely discloses “viewer preferences can be applied to the EPG to obtain a set of recommended programs” (col. 1, lines 42-43). Instead, Gutta “processes a user profile 120, if available, and a user’s viewing history 130 to generate a decision tree 200... The decision tree 200 may be applied to an electronic program guide 140 to make program recommendations” (col. 3, lines 18-24). The television programming recommender of Gutta applies the decision tree to the EPG regardless of current user actions, and is not generated in response to user action. Therefore, Gutta does not describe or suggest taking a first, second, or third predetermined action in response to when a user selects, preliminary selects, or takes another action, respectively. Nowhere does the cited portion or the rest of the Gutta reference teach or suggest three different and distinct actions that are relative to the single initial preliminarily selected audio/visual program in response to three different user actions with respect to the same single initial preliminarily selected audio/visual program.

The Gutta patent evaluates programming content irrespective of a current user’s action, and only evaluates prior use actions in making current determinations for generating a decision tree. There is no discussion or suggestion in Gutta to take one of three different actions relative to a single program in response to one of three different user actions.

Therefore, the Gutta patent fails to teach or suggest at least claim language such as “a user selects the preliminary selected audio/visual program, automatically taking a first predetermined action with respect the preliminary selected audio video program,” nor “a user preliminary selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminary selected audio/visual program, which second predetermined action is different from the first predetermined action.” Furthermore, Applicants respectfully submit that the office action fails to demonstrate how Gutta teaches or suggests at least “a user takes an action with respect to the preliminarily selected audio/visual program, which action does not comprise either selecting the preliminary selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program, which third predetermined action is different from the first and the second predetermined action.” Applicants respectfully submit that the Gutta patent does not expressly or inherently describe the limitations of claim 1, and thus, claim 1 is not anticipated or obvious over the Gutta patent.

Claims 2-9 depend from claim 1. Therefore, claims 2-9 are also not anticipated or made obvious by Gutta.

Regarding at least claim 4, the Gutta patent fails to teach or suggest “a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items.” The office action cites col. 2, lines 12-16 in attempt to support the rejection. This cited portion of the Office Action, however, merely discloses positive and negative programs and various program attributes of the positive and negative programs. Instead, Gutta teaches a “the television programming recommender 100 processes a use profile 120, if available, and a user’s viewing history 130 to generate a decision tree 200... The decision tree 200 may be applied to an electronic program guide 140 to make program recommendations” (col. 3, lines 17-24). Gutta does not disclose adding information regarding the user preliminarily selected audio/visual program to a list of preferred items.

Therefore Applicants respectfully submit that claim 4 is also not anticipated or made obvious over the Gutta patent.

With regards to claim 5, the Gutta patent fails to teach or suggest at least “a second predetermined action comprises moving an area of visual focus away from the preliminarily selected audio/visual program.” The office action cites col. 3, lines 22-26 in attempt to support the rejection. However, this cited portion merely discloses a decision tree may be applied to an electronic program guide to aide in making program recommendations. Nowhere in the cited portion or the rest of the reference is there discussion of an “area of visual focus” or “moving an area of visual focus away from the preliminary selected audio/visual program.” Therefore, claim 5 is not anticipated or made obvious by Gutta.

Claim 7 recites similar limitations as claims 4 and 5. Therefore claim 7 is also not anticipated or made obvious over the Gutta patent.

Regarding at least claim 8, the Gutta patent fails to teach or make obvious “detecting at least a predetermined relationship between a present position of one of the characterizing descriptors as corresponds to the particular one of the discrete selectable audio/visual programs and an area of visual focus. In rejecting the claim, the office action has cited col. 3, lines 53-59. However, this cited portion merely provides an example of how the decision tree of Gutta is utilized. Nowhere in the cited portion or the rest of the reference is there discussion of an “area of visual focus” or “determining relationship between a present position of one of the characterizing descriptors” to an area of visual focus. Therefore, claim 8 is not anticipated or made obvious by Gutta.

Regarding claim 9, Gutta fails to teach or make obvious at least “detecting when the user asserts a selection action at a time when a characterizing descriptor ... occupies, at least in part, a same portion of a display as a predetermined area of visual focus.” The office action cites col. 3, lines 53-59 in attempt to support the rejection. However, as mentioned above, nowhere in this cited portion or the rest of the reference is there discussion of an “area of visual focus” or the area of visual focus occupies a same portion of a display as a characterizing descriptor. Therefore, claim 9 is not anticipated or made obvious by Gutta.

Regarding at least independent claim 10, Applicants respectfully traverse the rejection as Gutta fails to expressly or inherently teach or make obvious all the limitations found in independent claim 10. For example, claim 10 recites in part:

in response to a first signal, adding information regarding the discrete selectable item of audio/visual content as corresponds to the particular displayed one of the characterizing descriptors as is presently in the area of visual focus to the updatable list of preferred items of audio/visual content;

in response to a second signal that is different from the first signal, moving the area of visual focus to a different one of the characterizing descriptors;

in response to a third signal that is different from both the first signal and the second signal, displaying the updatable list of preferred items of audio/visual content.

Specifically, Gutta fails to teach or make obvious at least “in response to a first signal, adding information regarding the discrete selectable item of audio/visual content as corresponds to the particular displayed one of the characterizing descriptors as is presently in the area of visual focus to the updatable list of preferred items of audio/visual content.” In addition, Gutta fails to discuss three distinct signals or an area of visual focus. The office action cites col. 1, lines 45-54 in attempt to support the rejection. However, this cited portion of the office action merely discuss a system provided by TiVo to rate a television program. Nowhere in the cited portion or the rest of the reference is there discussion of three distinct signals or an area of visual focus. Therefore, independent claim 10 is not anticipated or made obvious by the Gutta patent.

Claims 11-14 depend from claim 10. Therefore claims 11-14 are also not anticipated or made obvious by Gutta.

Regarding claim 14, Gutta fails to teach or disclose at least “automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined

length of time.” The office action cites col. 3 lines 53-59 in attempts to support the rejection. This cited portion of Gutta, however, merely provides an example of the decision tree utilized by Gutta. Instead, Gutta discusses utilizing “the various attributes are positioned in the hierarchical decision tree 200 based on a ranking entropy of each attribute,” these attributes include the duration of the program in formulating the decision tree (col. 3, lines 42-44). Gutta does not disclose monitoring when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time. Therefore, claim 14 is not anticipated or made obvious by Gutta.

### **CONCLUSION**

Applicants submit that the remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,

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